IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1527 of 2001
IN
SPECIAL CIVIL APPLICATIONNo 8383 of 2000

WITH

CIVIL APPLICATION NO 9936 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT
Versus
HARSUKH UKABHAI KOLI

Appearance:
1. LETTERS PATENT APPEAL No. 1527 of 2001
MR LR PUJARI, AGP for Appellant No.
MS ARCHANA U AMIN for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 08/04/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. By this Letters Patent Appeal, by invoking Clause 15 of the Letters Patent, the appellant original petitioner State of Gujarat has questioned the legality and validity of the order of the learned Single Judge in Special Civil Application No. 8383 of 2000 recorded on 6/10/2000, whereby the petition under Article 226 - 227 of the Constitution of India came to be rejected only on the ground of delay and also directing the appellant original petitioner to reinstate the respondent in service with continuity, but upon concession, with 50% of back wages.

2. After having heard the learned Assistant Government Pleader for the appellant and learned advocate for the respondent and analyzing and evaluating the factual profile and avowed and stated propositions of law on the point in issue, we find that the discretion exercised by the learned Single Judge while entertaining the petition under Article 226 of the Constitution of India could not be shown and has also not been spelt out to be in any way tainted by any infirmity. Therefore, we find no substance in this Letters Patent Appeal. However, in course of the hearing, again with generosity and fairness the learned advocate appearing for the respondent stated before us that the 25% of the back wages instead of 50% would be reasonable in the circumstances of the case. We, therefore, modify the award of the Labour Court, Junagadh in Reference (L.C.J.) No. 1710 of 1990 dated 22/6/1999 to the extent that the amount of back wages upon concession shall be 25% only. Rest of the award is affirmed and confirmed. The appellant is directed to deposit or pay the amount of 25% of back wages to the respondent within a period of six weeks from the date of receipt of writ of this order, without fail.

With this modification and observation, the appeal shall stand dismissed, without any order as to costs.

No order on Civil Application. Interim relief is vacated. Rule is discharged.

[J.N. BHATT, J.]

[AKSHAY H. MEHTA, J.]

* Pansala.